



Montoya, Darlene <dmontoya@nmag.gov>

Use of force policy

4 messages

Michael F. Trujillo <mfttrujillo@santaclarapueblo.org>
To: "dmontoya@nmag.gov" <dmontoya@nmag.gov>

Wed, Jan 25, 2017 at 2:23 PM

Hello Darlene,

Sorry for the delay on getting back with you. I have attached a current copy of our Use of Force policy. We are currently working with Tribal attorneys to revamp our policies.

Since we are a Tribal Agency, we also follow BIA Policy & Procedure. In the event of an Officer-Involved Shooting, the BIA would be our primary contact agency to investigate.

I hope this is helpful, and if you need further assistance, please contact me.

Enjoy the rest of your week and stay safe.

Respectfully,

M. Freddie Trujillo

Acting Chief of Police

Santa Clara Tribal Police Department

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CHAPTER 11 Use of Force.docx
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Montoya, Darlene <dmontoya@nmag.gov>
To: "Michael F. Trujillo" <mfttrujillo@santaclarapueblo.org>

Wed, Jan 25, 2017 at 2:36 PM

Thanks so much Michael. The LEAB Subcommittee would also like to know when was the last time these policies were reviewed and/or revised. Also, how often do your officers receive training on these SOPs?

Please let me know and I will attach to the policies for the Subcommittee.

[Quoted text hidden]

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](tel:5054904854)

Michael F. Trujillo <mfttrujillo@santaclarapueblo.org>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Wed, Jan 25, 2017 at 2:46 PM

Darlene,

Our policies are on current review with our Tribal Attorneys. The copy I attached is one being reviewed.

Once the updated policy is accepted by the Pueblo, we will have a training session for all LE staff.

Freddie

From: Montoya, Darlene [mailto:dmontoya@nmag.gov]
Sent: Wednesday, January 25, 2017 2:36 PM

To: Michael F. Trujillo <mftrujillo@santaclarapueblo.org>

Subject: Re: Use of force policy

[Quoted text hidden]

Montoya, Darlene <dmontoya@nmag.gov>

Wed, Jan 25, 2017 at 2:48 PM

To: "Michael F. Trujillo" <mftrujillo@santaclarapueblo.org>

Thanks for letting me know. Have a good one and stay safe.

[Quoted text hidden]

CHAPTER 11: USE OF FORCE

A. PURPOSE

The purpose of this policy is to establish guidelines for the use of force by officers so that force is only used when reasonably necessary to accomplish lawful objectives.

B. DEFINITIONS

1. “Deadly force” is force that creates a substantial risk of causing death or serious bodily harm.
2. “Excessive force” is an amount of force that is inappropriate or unreasonable under the circumstances or results in unnecessary injury or death to a suspect.

C. GENERAL GUIDELINES CONCERNING THE USE OF FORCE

1. Officers may only use necessary and reasonable force to effect an arrest, prevent an escape, neutralize an assault, or overcome unlawful resistance.
2. In situations that cannot be controlled otherwise, or situations where reasonable alternatives would be ineffective, some degree of force may be justified, if it is necessary, reasonable, and appropriate and will achieve the desired objective.
3. The use of physical force, if necessary, will cease when the arrest is complete or the arrestee ceases to resist or resistance is overcome.
4. Officers must exhaust all other means of apprehension and control before resorting to the use of force. Officers are responsible for assessing each situation and using only the lowest level of control or force deemed necessary at the moment that the decision is made to use force.
5. When assessing the need to use force, officers should consider the nature and extent of any threat posed by the subject, as well as all other circumstances of the encounter, including but not limited to the following: the severity of the crime, the degree to which the subject resists arrests or detention, and any attempts made by the subject to evade arrest by flight.

D. EXCESSIVE FORCE PROHIBITED

1. The Department will not tolerate an officer’s use of excessive force. An officer’s use of excessive force in any situation, regardless of the provocation or action of the offender, will result in disciplinary action, termination and/or criminal prosecution.
2. Justification for an officer’s use of force against a suspect arises solely from an officer’s reasonable perception that the suspect poses an immediate risk of harm to members of the public, the officer, or even the suspect himself. When it is determined that force is necessary, it will be used with discretion and only to a degree sufficient to overcome resistance or to protect oneself or others.

E. USE OF FORCE SPECTRUM

1. The varying degrees of force that may be used by an officer constitute a “Use of Force Spectrum.” Each officer shall apply the appropriate level of force from this spectrum as a situation warrants.
2. For the safety of officers, the general public, and suspects, officers must possess a wide variety of force tools. The following level of force maybe used by an officer, but only if that officer has been properly trained or certified concerning that force tool. The Use of Force Spectrum ranges from the lowest level of force to the highest level of force.
3. Use of Force Spectrum:

LEVEL 1: Level 1 is the lowest force tool on the Use of Force Spectrum. A Level 1 use of force is generally a verbal attempt to persuade someone to comply with an officer’s lawful order. Examples include advice, warnings, requests, and orders. An officer uses Level 1 Force when he or she tells someone to stay in his or her vehicle, warns someone to take his or her hands out of his or her pockets, or orders someone to remain where he or she is. Level 1 force is purely oral in nature and does not involve any touching.

LEVEL 2: Level 2 force involves low-impact physical contact with and the physical movement of someone without the use of any object or weapon. Examples include physically escorting or carrying someone from point A to point B. An officer who takes someone by the arm and escorts him or her to another location, or who carries a demonstrator participating in non-violent civil disobedience from one place to another, is using Level 2 Force.

LEVEL 3: The goal of Level 3 Force is compliance and/or control. The means to achieve this goal involve compression techniques and/or control devices. Compression techniques include such things as wrist locks, arm bars, physical control holds, and the use of pressure-point control tactics. Control devices include such tools as handcuffs. The use of a baton to pry or push is considered a Level 3 use of force, but the use of a baton to strike or hit a person is a higher level of force.

LEVEL 4: The goal of Level 4 Force is self-defense and includes the use of citizen with non-deadly force, an officer must respond with the appropriate level of physical force to prevent or neutralize such assaults. Officers may resort to personal defense techniques, which include kicking, punching, striking and stunning. Or officers may use impact weapons, which include pepper spray, mace, Tasers, police batons, and flashlights. These Level 4 force techniques and weapons, however, are not necessarily equal. Officers must independently assess every situation and use their best judgment to respond appropriately, using enough force to neutralize a threat but never use an excessive amount of force under the circumstances.

LEVEL 5: The goal of Level 5 force is to stop someone by using deadly force. The most common uses of deadly force in the law enforcement context involve firearms, but deadly force can also include any other type of force, such as a police roadblock or certain deadly uses of a baton strike. These specific uses of force are all potentially lethal.

F. APPLICATION OF THE USE OF FORCE SPECTRUM

1. Levels 1-4 are generally considered “non-deadly” uses of force while Level 5 is “deadly force.” Officers, however, must remember that the examples provided in Section E, are only examples, and that the application of what would normally be non-deadly force could rise to the level of deadly force depending on the circumstances.
2. The Use of Force Spectrum is not a rigid standard but rather a guideline to help officers apply the correct amount of force in situations that are usually tense and stressful. Officers should consider the Use of Force Spectrum a helpful guideline, not a restrictive rule that causes hesitation in potentially dangerous or deadly circumstances.
3. An officer may use deadly force (Level 5) to protect himself or herself or third persons from what is reasonably believed to be an immediate threat of death or serious physical injury. In the performance of duty, after all other reasonable means have been considered, an officer may use deadly force in the following limited circumstances:
 - a. To effect an arrest when the officer has probable cause to believe that a suspect is attempting to commit a felony involving the use of deadly force and the suspect’s use of deadly force is imminent.
 - b. If the officer or another person is the victim of an assault that is likely to cause death or great bodily harm. In this situation, an officer may stand his or her ground and defend himself or herself or another person, even to the point of using deadly force against the assailant.
 - c. In self defense, regardless of the age or gender of the assailant.
 - d. To otherwise control a violent situation in which the officer reasonably believes that the suspect’s use of potentially deadly force is imminent.

G. LIMITATIONS ON USE OF FORCE

1. Warning shots are not authorized and shall never be fired.
2. Officers shall not fire at or from a moving vehicle except when absolutely necessary in self defense or in defense of another person’s life, and when all other reasonable means have failed, and then only when the use of firearms creates no substantial risk to innocent persons.
3. Neck restraints and other similar holds which choke or restrict the ability to breathe or the flow of blood to the brain are prohibited except when the officers

reasonably believe there is an imminent threat of serious physical injury or death to themselves or a third person.

4. The use by an officer of any object to strike a blow to a person's head or other area likely to cause death or serious physical injury is prohibited except when deadly force is authorized.
5. Officers shall not display or brandish any weapon in a threatening or intimidating fashion unless it reasonably appears that the subject of the action presents a significant threat to the officer or a third person. The inappropriate display of a weapon may under the circumstances constitute excessive force, even if the weapon is not discharged.
6. Shots to destroy animals may be fired only when it is reasonably necessary to do so in order to defend the officer or third party against a threat of significant physical injury or to save a badly injured animal from great suffering. Before destroying a badly injured domestic animal, the officer shall make reasonable efforts to notify the animal's owner. If such notification cannot be swiftly accomplished, the officer is permitted to go forward with the destruction of the animal. No shot shall be fired to destroy any animal, wild or domestic, unless such shot can be fired safely in respect to human life and other property.
7. Tear gas may be used only upon the authorization of the Chief of Police.

H. TASERS

1. Because Tasers have the potential to cause serious injury, this type of weapon will only be used in the following circumstances: A Taser may be used to overcome resistance from a subject who the officer reasonably believes presents an immediate, credible threat to the safety of the officer or the public, or whenever an officer reasonably believes that a subject poses an immediate, credible threat to the subject's own safety.
2. Unless it would otherwise endanger officer safety or is impractical due to circumstances, a verbal announcement of the intended use of a Taser shall precede the application of the Taser in order to allow the subject an opportunity to comply and to warn fellow officers and the public of the intended use.
3. Officers shall carefully evaluate the circumstances before using a Taser on an individual who may be more susceptible to injury. Although not absolutely prohibited, officers should give additional consideration to the unique circumstances involved prior to applying the Taser. Criteria to consider include:
 - a. Availability and effectiveness of alternative means to gain compliance;
 - b. The imminence of the aggressive behavior and the potential harm;
 - c. Individuals who may be at greater risk of harm from a Taser include: pregnant women; elderly persons; children; and persons with known health problems.

4. Tasers shall not be used:
 - a. In potentially flammable or explosive environments;
 - b. On an individual exposed to flammable liquids or substances;
 - c. On individuals who are passively resisting;
 - d. As a prod or escort device;
 - e. To arouse unconscious, impaired, or intoxicated individuals;
 - f. On an individual operating a running vehicle or machinery;
 - g. On an individual who could fall from a significant height;
 - h. On an individual in a pool or body of water, or who could fall into a pool or body of water.
5. Tasers should not be used on a restrained subject, unless the actions of the subject somehow present an immediate threat of physical injury to an officer, the restrained subject, or another person. An officer using the Taser on a restrained subject should use the Taser in a drive stun mode.
6. Officers should avoid using more than one Taser at a time on a suspect. If the initial Taser becomes disabled, a second Taser may be deployed. If the Taser does not gain control or is ineffective, the officer shall cease using the Taser on the subject.
7. The target area should be the center of mass which allows the electrical impulse to engage large muscle groups. Officers shall not intentionally aim for the head, neck, or groin areas.
8. If a suspect loses consciousness after a Taser application, the officer shall immediately contact the dispatcher and/or emergency medical personnel and request an ambulance.
9. If after a Taser application the dart contacts are firmly embedded in the skin, they shall be removed only by appropriate medical personnel. Officers shall transport the subject to the nearest hospital or qualified medical facility to have the dart contacts removed.
10. If after a Taser application the subject falls from a standing position, the officer shall ask the subject about any potential injuries incurred from the fall. Potential injuries could include: fractures, contusions, and inter-cranial hemorrhage. If the subject indicates any potential injuries, the officer shall request an ambulance or, if the injuries are minor, transport the subject to the appropriate medical facility for treatment.

I. USE OF FORCE BY OFF-DUTY OFFICERS

1. Off-duty officers shall refrain from taking police action except in circumstances which seriously threaten life, valuable property, or public order. In other circumstances, the most appropriate police action is to request the assistance of an

on-duty officer at the first opportunity. Before taking any action involving the use of force while off duty, officers should carefully consider the risks to themselves and to others that may be caused by sudden confrontation with armed criminals or suspects. If it is feasible, the off-duty officer should identify himself as a law enforcement officer before taking any action.

2. No unarmed off-duty officer will be subjected to disciplinary action for failure to take action if that action would reasonably require being armed.

J. REPORTING & INVESTIGATING THE USE OF FORCE

1. Whenever an officer takes action resulting in injury or death to another person, or an officer applies force through the use of non-lethal weapons, the officer must write a report and submit it to the Chief of Police within twenty-four (24) hours of the incident.
2. The report shall:
 - a. Articulate the reason(s) for the use of force;
 - b. Briefly describe the event;
 - c. Detail the events leading to the use of force, the amount and type of force used, the nature and extent of the injuries to the officer and the subject;
 - d. Identify the combatants, the officers involved, and witnesses; and
 - e. Include any other pertinent information.
3. If an officer's use of force involves serious bodily injury or death, the Chief of Police will begin an immediate investigation pursuant to the procedures set forth in Chapter 23 (Internal Affairs Investigations).
4. All uses of force must be reviewed and assessed by the Chief of Police for purposes of training needs and liability issues.
5. An officer directly involved in a deadly force incident resulting in injury or death may be placed on administrative leave with pay and benefits, pending the results of an investigation. The assignment of leave shall not imply guilt or indicate that the officer acted improperly, or is being punished. While on leave, the officer will remain available at all times for official Department interviews regarding the incident and be subject to recall to duty.
6. Pending an investigation, an officer involved in the use of deadly force shall not discuss the incident with anyone except those agencies authorized to investigate, the Chief of Police, the Tribal Council, or any attorneys hired by Santa Clara Pueblo represent the officer or the Department.

